

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

|                              |   |                           |
|------------------------------|---|---------------------------|
| CLIFFORD W. GARDNER, #315301 | § |                           |
|                              | § |                           |
| V.                           | § | CIVIL ACTION NO. G-06-362 |
|                              | § |                           |
| GEAN LEONARD                 | § |                           |

**ORDER OF DISMISSAL**

Before the Court for its Order of Acceptance is a Report and Recommendation of the United States Magistrate Judge, entered on March 29, 2007, which recommends that the instant case, filed pursuant to 42 U.S.C. § 1983, be dismissed with prejudice as frivolous. The Report and Recommendation specifically provided: "Plaintiff shall have until April 16, 2007, in which to have written objections or answers to interrogatories physically on file in the Office of the Clerk." To date, no objections or answers to interrogatories have been filed.


Upon appropriate review pursuant to Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1)(C), the Court is satisfied that there is no clear error on the face of the record in these proceedings. Accordingly, the Report and Recommendation is **ACCEPTED** in its entirety and incorporated herein by reference. It is **ORDERED** that this cause is **DISMISSED** with prejudice as frivolous.

This Order does not release Plaintiff or the Texas Department of Criminal Justice, Institutions Division from the obligation to pay the filing fee previously imposed. Plaintiff is advised that if he appeals this dismissal, he will be required to pay the appeal fee of \$455.00 pursuant to the Prison

Litigation Reform Act, and he must submit a 6-month certificate of his inmate trust account when he files his notice of appeal.

A certified copy of this Order shall be mailed to: **TDCJ-Office of the General Counsel**, P.O. Box 13084, Austin, Texas, 78711; and, to **TDCJ Local Funds Division**, P.O. Box 629, Huntsville, TX 77342-0629.

**DONE** at Galveston, Texas, this the 2<sup>nd</sup> day of May, 2007.

  
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Samuel B. Kent  
United States District Judge